

CHAPTER 263
DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS

[Prior to 4/17/02, see rule 645—260.11(152B,272C)]

645—263.1(152B,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that the licensee is guilty of any of the following acts or offenses:

1. The grounds listed in Iowa Code section 272C.10.
2. Violations of 645—Chapter 261.
3. Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, false representations of a material fact, whether by word or conduct, false or misleading allegations, or concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged diploma, or certificate, affidavit, identification, or qualification in making application for licensure in this state.
4. Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes, but is not limited to, a respiratory care practitioner's having made misleading, deceptive, or untrue representations as to the practitioner's competency to perform professional services which the respiratory care practitioner is not qualified to perform.
5. Professional incompetence. Professional incompetence includes but is not limited to:
 - A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice;
 - A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other respiratory care practitioners in the state of Iowa acting in the same or similar circumstances;
 - A failure by a respiratory care practitioner to exercise in a substantial respect that degree of care which is ordinarily exercised by the average respiratory care practitioner acting in the same or similar circumstances;
 - A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of respiratory care in the state of Iowa.
6. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.
7. Habitual intoxication or addiction to the use of drugs. The inability of a respiratory care practitioner to practice respiratory care with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals, or other material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals, or other material which may impair a respiratory care practitioner's ability to practice the profession with reasonable skill and safety.
8. Involuntary commitment for treatment of mental illness, drug addiction, or alcoholism.
9. Being adjudged mentally incompetent by a court of competent jurisdiction.
10. Making suggestive, lewd, lascivious, or improper remarks or advances to a patient.
11. Verbally, physically, or sexually abusing a patient.
12. Any sexual intimidation or sexual relationship between a respiratory care practitioner and a patient.
13. Unethical practices, including:
 - Betraying a professional confidence;
 - Falsifying patient records;
 - Engaging in a professional conflict of interest;
 - Misappropriation of funds.

14. Use of untruthful or improbable statements in advertising. Use of untruthful or improbable statements in advertising includes, but is not limited to, an action by a respiratory care practitioner in making information or intention known to the public which is false, deceptive, misleading, or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to, the following:

- Inflated or unjustified expectations of favorable results.
- Self-laudatory claims that imply that the respiratory care practitioner is skilled in a field or specialty of practice for which the practitioner is not qualified.
- Extravagant claims or proclaiming extraordinary skills not recognized by the respiratory care profession.

15. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice respiratory care.

16. Failing to exercise due care in the delegation of respiratory care services to or supervision of assistants, employees, or other individuals, whether or not injury results.

17. Permitting another person to use one's license.

18. Practicing outside the scope of the license.

19. Obtaining any fee by fraud or misrepresentation.

20. Willful or repeated gross malpractice or willful or gross negligence.

21. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority; or selling, prescribing, or giving away controlled substances.

22. Violating a lawful order of the board, previously entered into by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

23. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of respiratory care.

24. Conviction of a felony related to the profession, or the conviction of any felony which would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

25. Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

26. Failure to report a license revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

27. Failure of a licensee or an applicant for licensure in this state to report any voluntary agreement to restrict the practice of respiratory care entered into in another state, district, territory, or country.

28. Knowingly submitting a false report of continuing education or failure to submit the annual report of continuing education.

29. Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

30. Failure to report a change of name or address to the office of the board within 30 days after occurrence.

31. Failure to comply with a subpoena issued by the board.

32. Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this rule shall follow the procedures set forth in Iowa Code chapter 252J.

This rule is intended to implement Iowa Code chapters 147 and 272C.

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